10 T.C. 1045 (1948)

A taxpayer who discovers a mineral deposit and operates a mine with the consent of the landowner has an economic interest in the mineral deposit, entitling them to a depletion deduction, even if the formal lease has expired, particularly where the landowner confirms the taxpayer's right to extract minerals.

Summary

H.M. Holloway discovered a gypsum deposit and began mining operations, initially under an oral agreement and later a written lease from a lessee of the landowner. Even after the written lease expired, Holloway continued mining with the landowner's explicit consent. The Tax Court held that Holloway had an economic interest in the gypsum deposits, entitling him to a discovery depletion deduction. This was based not only on the initial lease but also on the continued operation and the landowner's subsequent written confirmation of Holloway's right to mine the gypsum.

Facts

* H.M. Holloway discovered a gypsum deposit on land owned by Occidental Land & Development Co. ("Occidental").
* Initially, Holloway operated under an oral agreement with Lang, who leased the property from Occidental, with Occidental's approval, to mine gypsum as long as it was produced.
* Lang subsequently granted Holloway a two-year written sublease, which was renewed once.
* Even after the written sublease expired, Holloway continued mining operations with the tacit approval of Lang and Occidental.
* Lang died, and in 1946, Occidental executed a lease directly with Holloway, confirming his right to extract gypsum, acknowledging the prior assurances given by Lang.

Procedural History

* The Commissioner of Internal Revenue denied Holloway's claim for a discovery depletion deduction for the tax years 1943 and 1944, arguing that he lacked a sufficient economic interest in the gypsum deposits after the expiration of the written lease.
* Holloway petitioned the Tax Court for a redetermination of the deficiencies.
* The Tax Court consolidated the cases related to Holloway and his wife.

Issue(s)

Whether H.M. Holloway had a sufficient economic interest in the gypsum deposits to be entitled to a discovery depletion deduction under Section 114(b)(2) of the Internal Revenue Code for the tax years 1943 and 1944, even after the expiration of

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the written sublease but with the landowner’s consent.

Holding

Yes, because Holloway had an economic interest in the gypsum deposits due to his discovery, continued mining operations with the landowner’s consent and the landowner’s written confirmation of his right to extract gypsum.

Court’s Reasoning

* The Tax Court emphasized that the term

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